

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America, *ex rel.* Laurie
Simpson,

Case No. 0:08-cv-5758 (MJD/ECW)

vs.

Bayer Corporation; Bayer AG; and Bayer
Healthcare Pharmaceuticals, Inc.

**UNOPPOSED MOTION FOR
EXTENSION
OF FEE PETITION RESPONSE
DEADLINE**

Plaintiff/Relator,

Defendants.

Defendants Bayer Corporation, Bayer AG, and Bayer Healthcare Pharmaceuticals, Inc. (collectively, “Bayer”), hereby submits this unopposed motion for a period of 90-days to respond to fee petitions filed by Relator’s current and prior counsel. Dkts. 286-308.

In June 2021, Bayer, Relator’s Counsel, and the Government initially reached a “resolution in principal,” Dkt. 269, for Relators’ False Claims Act and Retaliation claims against Bayer in both the Minnesota and New Jersey Actions. As reported to the Court in the February 4, 2022 Status Update, however, the “resolution [did] not resolve the issue of statutory attorneys’ fees, costs, and expenses under the False Claims Act in either action.”

Id.

On October 20, 2022, Relator filed a stipulation of dismissal, Dkt. 272, and the next day the Court ordered that any claims for attorneys’ fees, costs, and expenses pursuant to 31 U.S.C. § 3730(d) and (h)(2) and Fed. R. Civ. P. 54 must be filed within 30 days of entry of the later filed judgment in this case and the New Jersey case. Dkt. 274. The Court also

ordered that “[u]pon entry of the later filed judgement, the parties shall meet and confer and jointly propose a briefing schedule to the Court.” *Id.* The Court did not set a specific date for Bayer’s response. The Court entered an order dismissing the case on December 8, 2022, and setting the deadline for the filing of fee motions as January 6, 2023. Dkt. 281.

On the Minnesota docket, on January 6, 2023, Kessler Topaz Meltzer & Check, G.C. Robinson, and Olshan Frome & Wolosky LLP all filed separate petitions for attorneys’ fees, expenses and costs. On the New Jersey docket, Kessler Topaz Meltzer & Check, G.C. Robinson, and Olshan Frome & Wolosky LLP again filed separate fee petitions, as did the estate of Robert W. Sadowski, and Stone & Magnanini LLP. All told, Bayer is in the process of analyzing and preparing responses to eight separate fee petitions requesting over \$48,000,000 in fees, expenses, and costs.

In accordance with this Court’s order to propose a joint briefing schedule, Dkt. 274, Relator’s Counsel contacted counsel for Bayer to meet and confer regarding a briefing schedule. Under this district’s local rules, Bayer’s response to the fee petitions would otherwise be due 14-days after the fee petitions were filed—*i.e.*, on January 20, 2023. *See* Local Rule No. 54.3. Given the number of overlapping counsel in both matters, the parties seek to continue the efficiency of having both cases moving in tandem. Accordingly, Bayer proposed an omnibus briefing schedule for the fee petitions in both matters and requested a period of 90-days to file its responses in both matters, which Relators’ Counsel do not oppose.

Bayer’s 90-day request is modest and proportionate, and good cause exists to grant Bayer’s request. The aggregate amounts sought by the fee petitions represent significant

monetary exposure that warrants close attention. Additionally, the documentation across all eight petitions that Bayer must analyze for its response exceeds well over 1000 pages. Although the majority of the fees sought are in the New Jersey action, both parties will realize significant efficiencies by allowing the petitions in both courts to proceed on the same schedule. A 90-day opposition period will not delay prompt resolution of this fee petition.

Accordingly, Bayer requests until April 6, 2023 to file its response.

Dated: January 20, 2023

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